

Message Text

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63

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FM SECSTATE WASHDC

TO USMISSION IAEA VIENNA

USMISSION EC BRUSSELS

INFO AMEMBASSY BRUSSELS

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BONN

AMEMBASSY LUXEMBOURG

AMEMBASSY ROME

AMEMBASSY THE HAGUE

C O N F I D E N T I A L STATE 227172

E.O. 11652: GDS

TAGS: PARM, IAEA, EEC, FR

SUBJECT: NPT EXPORTERS COMMITTEE: FRENCH AND EC ATTITUDES

REF: (A) IAEA VIENNA 8238; (B) EC BRUSSELS 6202

CONFIDENTIAL

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1. SUGGEST FOLLOWING HANDLING OF MATTER DISCUSSED REFTELS,
SUBJECT TO CONSIDERATION OF ANY COMMENTS ADDRESSEES MAY
OFFER.

2. SINCE ONLY WHOLLY SATISFACTORY OUTCOME WOULD BE TO HAVE FRANCE GO ALONG WITH EXPORTERS COMMITTEE GUIDELINES, (A) WE SHOULD AVOID CREATING THE IMPRESSION THAT WE MIGHT SETTLE FOR LESS UNLESS AND UNTIL IT BECOMES CLEAR THAT THIS OUTCOME CANNOT BE ACHIEVED; (B) WE ASSUME THAT ALL CONCERNED (INCLUDING SOVIETS, DESPITE THEIR DESIRE FOR EARLY JOINT ANNOUNCEMENTS) COULD BE PERSUADED THAT THE DESIRABILITY OF AVOIDING CIRCUMVENTION OF THE EXPORTERS COMMITTEE GUIDELINES BY OR THROUGH FRANCE OUTWEIGHS THE NEED FOR IMMEDIATE EXCHANGES OF THE CONTEMPLATED FORMAL NOTIFICATION AMONG MEMBERS OF THE COMMITTEE THAT ARE NOT YET PARTIES TO THE NPT. MOREOVER, FOR EC MEMBERS TO SEND SUCH NOTIFICATIONS WITH A DISCLAIMER WHILE THERE WAS STILL A POSSIBILITY OF FRENCH COOPERATION, MIGHT REDUCE THE CHANCES OF OBTAINING SUCH COOPERATION.

3. ACCORDINGLY, WE BELIEVE THAT IF SOME EC MEMBERS REPORT THAT THEY COULD PROCEED WITH SUCH FORMAL NOTIFICATIONS ONLY WITH SUCH A DISCLAIMER, THE US SHOULD SUGGEST DEFERRING THE SENDING OF SUCH NOTIFICATIONS BY SUCH MEMBERS UNTIL FURTHER EFFORTS HAVE BEEN MADE TO SOLVE THE FRENCH PROBLEM (SEE PARA 6 BELOW). AT THE SAME TIME, WE SHOULD URGE SUCH MEMBERS TO AVOID ACTING INCONSISTENTLY WITH THE EXPORTERS COMMITTEE GUIDELINES PENDING THE RESOLUTION OF THIS MATTER. (IN THIS CONNECTION, IT MIGHT BE USEFUL TO POINT OUT THE ANALOGY TO THE UNDERSTANDING REACHED AT THE SEPTEMBER BOARD MEETING IN CONNECTION WITH THE DEFERRAL OF ACTION ON STANDARDS FOR SAFEGUARDS AGREEMENTS.) THUS THEY SHOULD FOLLOW EXPORTERS COMMITTEE GUIDELINES IN EXPORTS TO NNWS OUTSIDE THE EC THAT ARE NOT PARTIES TO THE NPT; WHILE WE RECOGNIZE LEGAL BARRIERS TO THEIR WITHHOLDING EXPORTS TO FRANCE OF THE ITEMS IN QUESTION, THEY SHOULD DO WHAT THEY CAN DURING THIS PERIOD TO MAKE THE FRENCH RE-EXPORT CONFIDENTIAL

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LOOPHOLE AS LIMITED AS POSSIBLE IN ITS PRACTICAL EFFECTS.

4. IF IT IS REPORTED THAT THE FRENCH ARE WILLING TO ACCEPT THE CONDITION ON RE-EXPORT IN THE CASE OF IMPORTS FROM STATES WHICH JOINED THE EC AFTER RATIFYING THE NPT (A RESULT WHICH ART. L05 OF THE EURATOM TREATY SEEMS TO CALL FOR), WE SHOULD DISCUSS WITH SUCH STATES WHETHER THEY WOULD BE WILLING TO PROCEED WITH THE PROPOSED FORMAL NOTIFICATIONS TO THE IAEA BEFORE THE OTHER EC MEMBERS PROCEEDED WITH THEIR NOTIFICATIONS TO OTHER MEMBERS OF THE COMMITTEE. FYI. MISSION SHOULD BEAR IN MIND, HOWEVER, FACT THAT US MAY NOT BE IN POSITION TO SEND NOTIFICATION UNTIL IAEA-EURATOM AGREEMENT ENTERS INTO FORCE. SOVIETS MAY BE IN SAME SITUATION. END FYI.

5. AS FOR NON-EC MEMBERS (INCLUDING US AND USSR, AMONG

OTHERS), WE BELIEVE THEY SHOULD DISCUSS AT THE COMMITTEE MEETING THE IDEA OF IMPOSING, AS A CONDITION OF EXPORTS OF THE ITEMS IN QUESTION TO THE EC OR TO FRANCE, EITHER AN APPROPRIATE ASSURANCE WITH RESPECT TO RE-EXPORT OUT OF THE COMMUNITIES OR AN UNDERTAKING THAT SUCH ITEMS WOULD NOT BE RE-EXPORTED OUTSIDE THE COMMUNITIES WITHOUT THE CONSENT OF THE SUPPLIER (WHICH WOULD PRESUMABLY BE CONDITIONED ON COMPLIANCE WITH THE EXPORTERS COMMITTEE GUIDELINES). AT LEAST WITH RESPECT TO NUCLEAR MATERIALS, THE US ALREADY HAS SUCH A PROVISION IN ITS AGREEMENT FOR COOPERATION WITH EURATOM, WHICH INCLUDES A GUARANTEE THAT "NO MATERIAL, INCLUDING EQUIPMENT AND DEVICES, TRANSFERRED PURSUANT TO THIS AGREEMENT TO THE COMMUNITY OR TO

PERSONS WITHIN THE COMMUNITY...WILL BE TRANSFERRED TO UNAUTHORIZED PERSONS OR BEYOND THE CONTROL OF THE COMMUNITY, EXCEPT AS THE GOVERNMENT OF THE UNITED STATES OF AMERICA MAY AGREE TO SUCH TRANSFER AND THEN ONLY IF THE TRANSFER OF THE MATERIAL IS WITHIN THE SCOPE OF AN AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND ANOTHER NATION OR GROUP OF NATIONS." (ARTICLE XI OF 1958 AGREEMENT.) AND AS POINTED OUT IN REF (A), THE SOVIETS APPEAR TO HAVE IMPOSED A SIMILAR CONDITION ON THEIR AGREEMENT TO SUPPLY CONFIDENTIAL

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ENRICHED URANIUM TO FRG UTILITIES. THE IMPOSITION OF SUCH A CONDITION WOULD APPEAR TO BE CONSISTENT WITH ARTICLE 52 OF THE EURATOM TREATY, WHICH, AFTER PROVIDING THAT THE EURATOM SUPPLY AGENCY HAS THE EXCLUSIVE RIGHT OF CONCLUDING CONTRACTS RELATING TO SUPPLIES OF ORES, SOURCE MATERIALS AND SPECIAL FISSIONABLE MATERIALS COMING FROM INSIDE OR FROM OUTSIDE THE COMMUNITY, ADDS THAT "THE AGENCY SHALL NOT MAKE ANY DISCRIMINATION BETWEEN USERS BASED ON THE USE THEY INTEND TO MAKE OF THE SUPPLIES REQUESTED UNLESS SUCH USE IS UNLAWFUL OR IS FOUND TO BE CONTRARY TO CONDITIONS LAID DOWN BY SUPPLIERS OUTSIDE THE COMMUNITY IN RESPECT OF THE PARTICULAR DELIVERY CONCERNED." THE NON-EC MEMBERS SHOULD ALSO DISCUSS THE QUESTION OF TAKING SIMILAR ACTION WITH RESPECT TO TRIGGER LIST ITEMS OTHER THAN NUCLEAR MATERIALS.

6. OUR IDEAS RE NEXT STEPS WITH FRENCH ARE AS FOLLOWS:
(A) YOU SHOULD SEEK TO ASCERTAIN FROM UK DELEGATION BEFORE MEETING STATUS OF THEIR CONSULTATIONS WITH FRENCH AND WHEN THEY EXPECT RESOLUTION OF PROBLEM REFERRED TO IN PARA 4 ABOVE; (B) AT THE NOVEMBER 20 MEETING YOU MAY, AT YOUR DISCRETION, DISCUSS HOW UK PROBLEM CAN BEST BE EXPEDITED, AND QUESTION OF TIMING OF OTHER APPROACHES TO THE FRENCH; (C) IN LATTER CONNECTION, YOU SHOULD BEAR IN MIND POSSIBILITY OF TAPE'S BROACHING THE SUBJECT

INFORMALLY WITH GOLDSCHMIDT WHEN THEY ARE IN VIENNA FOR
FORTHCOMING SAC MEETING; (D) FOLLOWING NOVEMBER 20
MEETING, MISSION SHOULD SEND ITS ASSESSMENT AND RECOMMEN-
DATIONS FOR FURTHER ACTION.

7. FOR EC BRUSSELS. WOULD APPRECIATE TEXT O

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